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NSF 11-1 January 2011

Chapter VI - Other Post Award Requirements and Considerations

A. NON-DISCRIMINATION STATUTES

1. General

a. A number of statutes bar recipients of Federal financial assistance from excluding persons, because of their race, sex, color, disability, age, or national origin, from participation in Federally supported activities. These include: Title VI of the Civil Rights Act of 1964 (barring discrimination on grounds of race, color, or national origin); Section 504 of the Rehabilitation Act (barring discrimination against individuals with disabilities); and the Age Discrimination Act. Title IX of the Educational Amendments of 1972 bars sex discrimination in Federally assisted education programs or activities. In addition to statutory prohibitions, E.O. 11246 bars various types of discriminatory employment practices under grants for construction. The following sections discuss the application of each of these Acts and E.O. 11246 to NSF grantees.

b. When a recipient of an NSF grant receives an Equal Opportunity Complaint, the original complaint should be sent to the Director, Office of Equal Opportunity Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

2. Civil Rights Act of 1964

Before any organization serves as a subrecipient on an NSF grant (for other than the provision of commercially available supplies, materials, equipment or general support services), it must first file an Assurance of Compliance form with either the grantee or NSF.

a. Background

Section 602 of the Civil Rights Act of 1964 ([42 USC §2000d et seq.](http://www.law.cornell.edu/uscode/html/uscode42/usc_sec_42_00002000---d000-.html) [<http://www.law.cornell.edu/uscode/html/uscode42/usc_sec_42_00002000---d000-.html>](http://www.law.cornell.edu/uscode/html/uscode42/usc_sec_42_00002000---d000-.html)) provides that no person in the U.S. shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 requires that each Government agency which is empowered to extend such financial assistance issue rules or regulations implementing Title VI of the Act with respect to such programs or activities administered by the agency.

b. NSF Regulations

NSF regulations implementing Title VI of the Civil Rights Act are found at [45 CFR §611](http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr611_06.html) [<http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr611_06.html>](http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr611_06.html) . These regulations apply to the grantee and to any subrecipients such as subawardees, contractors and subcontractors of a grantee, and successors in interest (other than subrecipients for commercially available supplies, materials, equipment or general support services). The regulations require that as a condition of approval of an application for assistance, the applicant must execute an Assurance of Compliance, whether or not a similar assurance form has been filed with another Federal agency. (See [GPG Exhibit II-6 \(gpg_2.jsp#Ilex6\)](#) for additional information.)

c. Civil Rights Certification --Subrecipients

Before any organization serves as a subrecipient on an NSF grant (for other than the provision of commercially available supplies, materials, equipment or general support services), it must first file an Assurance of Compliance with the grantee.

d. Grant Conditions

Each NSF grant contains as part of the standard grant conditions an article implementing Title VI.

3. Rehabilitation Act

a. Background

Section 504 of the Rehabilitation Act of 1973, as amended ([29 USC §794](http://www.law.cornell.edu/uscode/html/uscode29/usc_sec_29_00000794----000-.html) [<http://www.law.cornell.edu/uscode/html/uscode29/usc_sec_29_00000794----000-.html>](http://www.law.cornell.edu/uscode/html/uscode29/usc_sec_29_00000794----000-.html)) provides that no otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...

b. NSF Regulations

NSF regulations implementing Section 504 are found at [45 CFR §605](http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr605_06.html) [<http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr605_06.html>](http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr605_06.html) . With a few changes, these regulations follow closely the regulations issued by the Department of Health and Human Services (DHHS) at 45 CFR §84. These regulations also apply to subrecipients such as subawardees, contractors and subcontractors of a grantee, and successors in interest (other than subrecipients for the provision of commercially available supplies, materials, equipment or general support services).

c. Section 504 Certification - Subrecipients

In lieu of requiring grantees to obtain separate certifications from subrecipients receiving financial assistance under an NSF grant, grantees will include in all subawards (for other than the provision of commercially available supplies, materials, equipment or general support services), a certification of compliance comparable to that included in NSF grants.

d. Grant Conditions

Each NSF grant contains as part of the standard grant conditions an article implementing Section 504 and the NSF regulations.

4. Title IX - Sex Discrimination

a. Background

Subject to certain exceptions regarding admission policies at certain religious and military organizations, Title IX of the Education Amendments of 1972 (20 USC §§1681-1686) prohibits the exclusion of persons on the basis of sex from any education program or activity receiving Federal financial assistance. All NSF grantees must comply with Title IX.

b. NSF Regulations

NSF regulations implementing Title IX of the Education Amendments of 1972 are found at [45 CFR §618 <http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr618_06.html>](http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr618_06.html).

c. Grant Conditions

Each NSF grant contains, as part of the standard grant conditions, an article implementing Title IX.

5. Age Discrimination Act

a. Background

The Age Discrimination Act of 1975, as amended ([42 USC §§6101 et seq.](http://www.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_76.html) http://www.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_76.html), provides that pursuant to regulations issued by DHHS "no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance."

b. NSF Regulations

NSF regulations implementing the Age Discrimination Act are found at [45 CFR §617 <http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr617_06.html>](http://www.access.gpo.gov/nara/cfr/waisidx_06/45cfr617_06.html).

c. Grant Conditions

Each NSF grant contains, as part of the standard grant conditions, an article implementing the Age Discrimination Act.

6. Equal Employment Opportunity under E.O. 11246

a. Background

E.O. 11246, as amended, requires contractors and subcontractors performing Federally assisted construction projects to provide equal opportunity, without regard to race, color, religion, sex or national origin, to persons employed or seeking employment with them. This E.O. may apply to some NSF grants for construction.

b. Grant Conditions

In instances when E.O. 11246 is applicable, the grant will include an equal opportunity clause in conformance with regulations issued by the Secretary of Labor at [41 CFR §60](#)
<[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?
c=ecfr&sid=a4d660ef04e041df45e17043345c82f6&rgn=div5&view=text&node=41:1.2.3.1.1&idno=41](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=a4d660ef04e041df45e17043345c82f6&rgn=div5&view=text&node=41:1.2.3.1.1&idno=41)>

B. PROTECTION OF LIVING ORGANISMS

1. Human Subjects

a. Background

The grantee is responsible for the protection of the rights and welfare of human subjects involved in activities supported by NSF. All research involving human subjects supported or otherwise subject to regulation by any Federal agency is covered by a policy set forth in a Common Rule, *Protection of Human Subjects* (http://www.access.gpo.gov/nara/cfr/waisidx_99/45cfr690_99.jsp
<http://www.access.gpo.gov/nara/cfr/waisidx_99/45cfr690_99.html>). Complete instructions on preparation and submission of proposals that involve use of human subjects are available in [GPG Chapter II.D.6 \(gpg_2.jsp#IID6\)](#).

b. NSF Regulation

NSF's Common Rule on Protection of Human Subjects is available on the NSF website at <https://www.nsf.gov/bfa/dias/policy/docs/45cfr690.pdf>
<<https://www.nsf.gov/bfa/dias/policy/docs/45cfr690.pdf>>. Guidance about the regulation is available at <https://www.nsf.gov/bfa/dias/policy/human.jsp> <<https://www.nsf.gov/bfa/dias/policy/human.jsp>>.

c. Grant Conditions

Each NSF grant contains, as part of the standard grant conditions, an article implementing NSF regulations on projects involving research with human subjects.

2. Research Involving Recombinant DNA Molecules

a. Applicability

This section applies to all research, for which NSF grant funds are used, that falls within the scope of the Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines) (<http://www4.od.nih.gov/oba/rac/guidelines/guidelines.html>), as amended in January 2001, hereafter referred to as the □Guidelines□.

b. Policy

NSF grantees performing research within the U.S. that falls within the scope of the Guidelines shall comply with the Guidelines, including the procedural requirements and any subsequent revisions as they are published in the Federal Register. Grantee responsibilities include:

- (i) Each organization involved in the conduct of NSF-supported recombinant DNA research subject to the Guidelines must have a standing Institutional Biosafety Committee (IBC) as specified in Section IV of the Guidelines.
- (ii) Recombinant DNA research subject to the Guidelines must be registered with the IBC indicating compliance with the containment requirements specified in Part III of the Guidelines. IBCs are required to keep records of recombinant DNA research conducted at their organization in a form that is available to NSF upon request.

c. Research Requiring Prior Approval of the Director, NIH

In certain instances research should not be initiated or registered with IBCs prior to approval and determination of containment level by the Director, NIH. Normally such experiments are reviewed by the Recombinant DNA Advisory Committee before a decision is made by the Director, NIH. Such instances are:

- (i) research for which containment levels are not explicitly specified by the Guidelines;
- (ii) research involving experiments prohibited by the Guidelines, i.e., requests for exceptions to the Guidelines; and
- (iii) requests to perform experiments without regard to the containment specified in the Guidelines, i.e., exemptions from the Guidelines.

The grantee is responsible for the humane care and treatment of any vertebrate animal used or intended for use in such activities as field or laboratory research, development, training, experiments, biological testing or for related purposes supported by NSF grants.

d. Recombinant DNA Research Outside the U.S.

Recombinant DNA research within the scope of the Guidelines that is performed outside of the U.S. using funds provided by NSF for transportation, salaries or direct research expenses must comply with the U.S. or host country standards. If the research is to be carried out in a country that has adopted guidelines comparable to those of the U.S., a document with information and endorsements assuring compliance to the host organization standards must be submitted to NSF. NSF funds may

not be used to carry out research using recombinant DNA in a country that has not adopted national guidelines unless the research is in full compliance with the Guidelines and the procedures required for NSF-supported research within the U.S.

3. Vertebrate Animals

a. Background

The grantee is responsible for the humane care and treatment of any vertebrate animal used or intended for use in such activities as field or laboratory research, development, training, experiments, biological testing or for related purposes supported by NSF grants.

b. Federal Regulations

(i) Any grantee performing research on vertebrate animals¹¹ shall comply with the Animal Welfare Act [7 U.S.C. 2131 et seq.] and the regulations promulgated thereunder by the Secretary of Agriculture [9 CFR 1.1-4.11] pertaining to the humane care, handling, and treatment of vertebrate animals held or used for research, teaching or other activities supported by Federal awards. The awardee is expected to ensure that the guidelines described in the National Academy of Science (NAS) Publication, *Guide for the Care and Use of Laboratory Animals* (1996) are followed and to comply with the *Public Health Service Policy and Government Principles Regarding the Care and Use of Animals* (included as Appendix D to the NAS Guide).

(ii) During the life of the award, additional IACUC approval must be obtained if the protocols for use of vertebrate animals have been changed substantively from those originally proposed and approved, or if the previous approval is more than three years old. In the event the grantee's multi-project Assurance is cancelled or lapses, the grantee must immediately notify the NSF Grants and Agreements Officer identified in the award.

(iii) Research facilities subject to the Animal Welfare Act using or intending to use live animals in research and who receive Federal funding are required to register the facility with the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture. A current listing of licensed animal dealers may also be obtained from APHIS. The location of the nearest APHIS Regional Office, as well as information concerning this and other APHIS activities may be obtained at <http://www.aphis.usda.gov> <<http://www.aphis.usda.gov>>

(iv) Awards to U.S. grantees for projects involving the care or use of vertebrate animals at a foreign institution or foreign field site also require approval of research protocols by the U.S. grantee's IACUC. If the project is to be funded through an award to a foreign institution or through an individual fellowship award that will support activities at a foreign institution, NSF will require a statement of compliance that the activities will be conducted in accordance with all applicable laws in the foreign country and that the International Guiding Principles for Biomedical Research Involving Animals (see <http://www.cioms.ch> <<http://www.cioms.ch>>) will be followed.

c. Grant Conditions

Each NSF grant contains, as part of the standard grant conditions, an article implementing NSF regulations on projects involving research with vertebrate animals.

4. Government Permits and Activities Abroad

- a. For awards that include activities requiring permits from appropriate Federal, state, or local government authorities, the awardee should obtain any required permits prior to undertaking the proposed activities.
- b. The awardee should assure that activities carried on outside the U.S. are coordinated as necessary with appropriate U.S. and foreign government authorities and that necessary licenses, permits or approvals are obtained prior to undertaking proposed activities. NSF does not assume responsibility for awardee compliance with the laws and regulations of the country in which the work is to be conducted.

C. CONSTRUCTION, REARRANGEMENTS AND ALTERATIONS

1. Davis-Bacon Act

The Davis-Bacon Act (40 USC §§276a et seq.) establishes minimum wages to be paid to laborers and mechanics on construction contracts to which the U.S. is a party involving public buildings or public works within the U.S. A number of other statutes have extended this provision to specific Federal grant programs involving construction. However, unless specifically stated in the grant, the Davis-Bacon Act does not normally apply to NSF grants since grantees normally retain title to property acquired under the grant and the construction, if any, is normally on non-Government land.

2. Bonding and Insurance

The NSF Act (42 USC §1870c) provides NSF with authority to enter into grants, contracts or other agreements without performance or other bonds. Therefore, unless the grant specifically provides otherwise, NSF does not require performance or other bonds or insurance.

3. Seismic Safety of Buildings

E.O. 12699 Seismic Safety of Federal and Federally-assisted or Regulated New Building Construction dated January 5, 1990, requires that consideration be given to seismic hazards in the design of buildings. Very seldom are NSF grantees involved with federally-assisted construction and rarely are new buildings involved. NSF ensures compliance with the Order through its grantees and grantee organizations by inclusion of a specific grant condition in any appropriate grant.

D. INTELLECTUAL PROPERTY

1. Patents and Inventions

a. Background

(i) The disposition of rights to inventions made by small business firms and non-profit organizations, including universities and other institutions of higher education, during NSF-assisted research is governed by Chapter 18 of Title 35 of the USC, commonly called the Bayh-Dole Act. In accordance with a Presidential Memorandum entitled Government Patent Policy issued on February 18, 1983 and under the authority of Section 12 of the National Science Foundation Act of 1950, as amended (42 USC §1871), NSF applies the policies of the Bayh-Dole Act to all its grantees. The Department of Commerce (DOC) is the lead agency for implementing the Bayh-Dole Act and has published guidance to Federal agencies in 37 CFR §401. NSF's implementing rules are published in 45 CFR §650.

(ii) NSF's standard Patent Rights clause, published at 45 CFR §650.4(a), is identical to that prescribed in the DOC guidance (37 CFR §401.14(a)) except that:

(a) NSF has tailored the clause to apply to grants and to identify NSF;

(b) pursuant to Section 401.5(d) of the DOC guidance (37 CFR §401.5(d)), NSF has added to paragraph b. of the clause a stipulation that NSF reserves the right to direct a grantee to transfer to a foreign government or research performer such rights to any subject invention as are required to comply with any international treaty or agreement identified when the grant is made as being applicable to the assisted research;

(c) as permitted by Section 401.5(f) of the DOC guidance (37 CFR §401.5(f)), NSF has added a subparagraph to the end of paragraph f. of the clause to require grantees or their representatives to send NSF confirmations of the Government licenses for subject inventions and of the page of any United States patent application that contains the Federal support clause;

(d) since NSF normally uses the same clause for all subcontractors, the first two subparagraphs of paragraph g. of the clause specified in the DOC guidance have been reduced to one;

(e) paragraph c.1 of the clause has been changed to require that invention disclosures be submitted electronically via the iEdison system; and

(f) paragraph L. of the clause has been changed to require that all communications required by the Patents Rights clause be submitted electronically via the iEdison system unless prior permission is obtained from the NSF Patent Assistant.

b. National Science Foundation Patent Policy

As authorized by the National Science Board (NSB), the Director of the NSF has adopted the following NSF patent policy.

(i) In accordance with the Bayh-Dole Act and the Presidential Memorandum entitled Government Patent Policy issued February 18, 1983, NSF will use the Patent Rights clause prescribed by DOC in all its funding agreements for the performance of experimental, developmental or research work, including grants made to foreign entities, unless NSF determines that some other provision would better serve the purposes of that Act or the interests of the U.S. and the general public.

(ii) In funding agreements covered by a treaty or agreement that provide that an international organization or foreign government, research institute or inventor will own or share patent rights, NSF will acquire such patent rights as are necessary to comply with the applicable treaty or agreement.

(iii) If a grantee elects not to retain rights to an invention, NSF will allow the inventor to retain the principal patent rights unless the grantee, or the inventor's employer, if other than the grantee, shows that it would be harmed by that action.

(iv) NSF will normally allow any patent rights not wanted by the grantee or inventor to be dedicated to the public through publication in scientific or engineering journals or as a statutory invention registration. If another Federal agency is known to be interested in the relevant technology, however, NSF may give it an opportunity to review and patent the invention so long as that does not inhibit the dissemination of the research results to the research community.

c. Standard Patent Rights Clause

Each NSF grant contains as part of the standard grant conditions an article implementing the standard patent rights clause.

d. Electronic Invention Handling

Grantees are encouraged to use the iEdison System to disclose NSF subject inventions. Detailed instructions for use of that system are provided at <http://s-edison.info.nih.gov/iEdison/> <<http://s-edison.info.nih.gov/iEdison/>> and should be followed for NSF subject inventions except that:

a. All communications required must be provided electronically as a PDF or TIFF file through iEdison unless prior permission for another form of submission is obtained from the NSF Patent Assistant.

b. NSF does not require either an Annual Utilization Report or a Final Invention Statement and Certification.

Questions on use of iEdison and requests for permission to submit material in other forms may be sent to the NSF Patent Assistant at patents@nsf.gov, or at the Office of the General Counsel, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

2. Copyright

a. Rights to Copyrightable Material

The following principles governing the treatment of copyrightable material produced under NSF grants were adopted by the NSB.

(i) NSF normally will acquire only such rights to copyrightable material as are needed to achieve its purposes or to comply with the requirements of any applicable government-wide policy or international agreement.

(ii) To preserve incentives for private dissemination and development, NSF normally will not restrict, or take any part of income earned from, copyrightable material except as necessary to comply with the requirements of any applicable government-wide policy or international agreement.

(iii) In exceptional circumstances, NSF may restrict or eliminate an awardee's control of NSF-supported copyrightable material and of income earned from it, if NSF determines that this would best serve the purposes of a particular program or grant.

b. Standard Copyrightable Material Clause

Unless a special copyrightable material clause has been negotiated, each NSF grant that relates to scientific or engineering research contains as part of the standard grant conditions an article implementing the standard copyrightable material clause.

3. Special Patent and Copyright Situations

a. Special Grant Provisions

At the request of the prospective grantee or on recommendation from NSF staff, a Grants and Agreements Officer, with the concurrence of the cognizant Program Officer, may negotiate special patent or copyright provisions when he/she determines that exceptional circumstances require restriction or elimination of the right of a prospective grantee to control principal rights to subject inventions or writings in order to better achieve the objectives of the program, the National Science Foundation Act, or (in the case of inventions) Chapter 18 of Title 35 of the USC. Every special copyright or patent provision will allow the grantee, after an invention has been made or copyrightable material created, to request that it be allowed to retain principal rights to that invention or material, unless doing so would be inconsistent with an obligation imposed on NSF by statute, international agreement or pact with other participants in, or supporters of, the research.

b. Grants Not Primarily for Research

(i) Grants not primarily intended to support scientific or engineering research generally do not contain patent or copyrightable material provisions. Examples of such grants are travel, conference and equipment grants.

(ii) NSF Fellowships and Traineeships. In accordance with Section 212 of Title 35 of the USC, NSF claims no rights to inventions made by fellows or trainees. The following provision will be included in each fellowship or traineeship program solicitation and made part of the grant:

INTELLECTUAL PROPERTY RIGHTS

The National Science Foundation claims no rights to any inventions or writings that might result from its fellowship or traineeship grants. However, fellows and trainees should be aware that the NSF, another Federal agency, or some private party may acquire such rights through other support for particular research. Also, fellows and trainees should note their obligation to include an Acknowledgment and Disclaimer in any publication.

[END OF PROVISION]

c. Grants Affected by International Agreements

(i) Many of the bilateral and multilateral treaties and agreements underlying NSF's international cooperative research programs contain provisions on allocation of rights to inventions or writings. These sometimes require an allocation of rights different from that provided by the standard Copyrightable Material or Patent Rights clauses. In those cases, the standard clauses will be modified through the addition of the following to the grant:

This project is supported under the cooperative program listed below. Your rights in inventions, writings, and data may be affected. □

The applicable agreement or treaty will be identified immediately beneath that sentence.

(ii) After an invention is disclosed to the Patent Assistant, the grantee of a grant subject to an international agreement will be informed as to what rights, if any, it must transfer to foreign participants. Grantees also may ask the NSF Program Officer for copies of the identified international agreement before or after accepting a grant.

4. Dissemination and Sharing of Research Results

a. Investigators are expected to promptly prepare and submit for publication, with authorship that accurately reflects the contributions of those involved, all significant findings from work conducted under NSF grants. Grantees are expected to permit and encourage such publication by those actually performing that work, unless a grantee intends to publish or disseminate such findings itself.

b. Investigators are expected to share with other researchers, at no more than incremental cost and within a reasonable time, the primary data, samples, physical collections and other supporting materials created or gathered in the course of work under NSF grants. Grantees are expected to encourage and facilitate such sharing. Privileged or confidential information should be released only in a form that protects the privacy of individuals and subjects involved. General adjustments and, where essential, exceptions to this sharing expectation may be specified by the funding NSF Program or Division/Office for a particular field or discipline to safeguard the rights of individuals and subjects, the validity of results, or the integrity of collections or to accommodate the legitimate interest of investigators. A grantee or investigator also may request a particular adjustment or exception from the cognizant NSF Program Officer.

c. Investigators and grantees are encouraged to share software and inventions created under the grant or otherwise make them or their products widely available and usable.

d. NSF normally allows grantees to retain principal legal rights to intellectual property developed under NSF grants to provide incentives for development and dissemination of inventions, software and publications that can enhance their usefulness, accessibility and upkeep. Such incentives do not, however, reduce the responsibility that investigators and organizations have as members of the scientific and engineering community, to make results, data and collections available to other researchers.

e. NSF program management will implement these policies for dissemination and sharing of research results, in ways appropriate to field and circumstances, through the proposal review process; through award negotiations and conditions; and through appropriate support and incentives for data cleanup, documentation, dissemination, storage and the like.

5. Tangible Property

a. Background

Some NSF grants support collection or creation of tangible property, such as insects, marine life, drilling core samples and genetically-altered microorganisms. As used in this section tangible property means any personal property other than equipment (see AAG Chapter V.B.2), and intellectual property.

b. Legal Rights to Tangible Property

Unless otherwise provided in the grant, all legal rights to tangible property collected or created during NSF-assisted research remain with the grantee or investigators as determined by the policies of the organization. As members of the scientific and engineering community, both grantees and investigators are responsible for making such tangible property appropriately available to other researchers.

E. PUBLICATION/DISTRIBUTION OF GRANT MATERIALS

1. NSF Policy

NSF advocates and encourages open scientific and engineering communication. NSF expects significant findings from research it supports to be promptly submitted for publication, with authorship that accurately reflects the contributions of those involved.

2. Costs

Cost of documenting, preparing, publishing, disseminating and sharing research findings and supporting material are allowable charges against the grant. (See [AAG Chapter V.B.7 \(aag_5.jsp#VB7\)](#).)

3. Responsibilities

Unless otherwise provided in the grant, preparation, content, editing, identification of authorship and submission for publication of significant research findings are the responsibility of the investigators, consistent with such policies and procedures as the grantee may prescribe.

4. Grantee Obligations

a. Acknowledgement of Support. Unless otherwise provided in the grant, the grantee is responsible for assuring that an acknowledgment of NSF support is made:

(i) in any publication (including Web pages) of any material based on or developed under this project, in the following terms:

"This material is based upon work supported by the National Science Foundation under Grant No. (NSF grant number)."

(ii) NSF support also must be orally acknowledged during all news media interviews, including popular media such as radio, television and news magazines.

b. Disclaimer. The awardee is responsible for assuring that every publication of material (including World Wide Web pages) based on or developed under this award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer:

"Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the National Science Foundation."

c. Copies for NSF. The grantee is responsible for assuring that the cognizant NSF Program Officer is provided access to, either electronically or in paper form, a copy of every publication of material based on or developed under this award, clearly labeled with the award number and other appropriate identifying information, promptly after publication.

d. Grantees should also note their obligations in regard to copyrights (see [AAG Chapter VI.D.2 \(aag_6.jsp#VID2\)](#)) and their responsibilities as members of the scientific and engineering community to disseminate and share research results (see [AAG Chapter VI.D.4 \(aag_6.jsp#VID4\)](#)).

F. PROGRAM INCOME

1. Background

The following provisions implement the applicable portions of 2 CFR §215.24 on program income as well as the principle on income from copyrightable material adopted by the NSB. (See [AAG Chapter VI.D.2a \(aag_6.jsp#VID2a\)](#).)

2. Definition

PROGRAM INCOME means gross income earned by the grantee that is directly generated by a supported activity or earned as a result of the grant. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under the grant, the sale of commodities or items fabricated under the grant, license fees for, and royalties on, copyrights and interest on loans made with grant funds. Interest earned on advances of Federal funds is not program income. Program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

3. NSF Policy

a. **Standard Treatment.** Unless otherwise specified in the grant, program income received or accruing to the grantee during the period of the grant is to be retained by the grantee, added to the funds committed to the project by NSF, and thus used to further project objectives. The grantee has no obligation to NSF with respect to: 1) license fees and royalties for copyrighted material, patents, patent applications, trademarks and inventions; or 2) program income received beyond the period of the grant.

b. **Special Treatment.** In exceptional circumstances, the NSF Grants and Agreements Officer, in collaboration with Program Officers and other appropriate NSF offices, may approve use of a special grant provision to restrict or eliminate a grantee's control of income earned through NSF-supported activities if it determines that this would best serve the purposes of a particular program or grant. The special provisions may require the Federal share of program income be kept in a separate account, reported on and/or remitted for such periods as may be reasonable under the circumstances.

G. INTERNATIONAL CONSIDERATIONS

1. Travel to Foreign Countries

a. Policy

(i) Expenses for transportation, lodging, subsistence and related items incurred by project personnel and by outside consultants employed on the project, (see [AAG Chapter V.B.4 \(aag_5.jsp#VB4\)](#)) who are on travel status on business related to an NSF-supported project are allowable as prescribed in the governing cost principles. The requirements for prior approval detailed in the governing cost principles are waived.

(ii) Support for the foreign travel of an investigator's dependents is allowable only under the conditions identified in [AAG Chapter V.B.4 \(aag_5.jsp#VB4\)](#).

b. Use of U.S.-Flag Air Carriers

(i) The General Services Administration issued an amendment to the Federal Travel Regulations in the November 13, 1998 edition of the Federal Register (Vol. 63, No. 219). The amendment relates to the use of U.S. Flag air carriers under the provisions of 49 USC §40118, which is commonly referred to as the Fly America Act.

(ii) Any air transportation to, from, between or within a country other than the U.S. of persons or property, the expense of which will be assisted by NSF funding, must be performed by, or under a code-sharing arrangement with, a U.S.-Flag air carrier if service provided by such a carrier is available (see Comp. Gen. Decision B-240956, dated September 25, 1991). Tickets (or documentation for electronic tickets) must identify the U.S.-Flag air carrier's designator code and flight number.

(iii) For the purposes of this requirement, U.S.-Flag air carrier service is considered available even though:

(a) comparable or a different kind of service can be provided at less cost by a Foreign-Flag air carrier;

(b) Foreign-Flag air carrier service is preferred by or is more convenient for NSF or traveler; or

(c) service by a Foreign-Flag air carrier can be paid for in excess foreign currency.

(iv) The following rules apply unless their application would result in the first or last leg of travel from or to the U.S. being performed by a Foreign-Flag air carrier:

(a) a U.S.-Flag air carrier shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route;

(b) if a U.S.-Flag air carrier does not serve an origin or interchange point, a Foreign-Flag air carrier shall be used only to the nearest interchange point on a usually traveled route to connect with a U.S.-Flag air carrier; or

(c) if a U.S.-Flag air carrier involuntarily reroutes the traveler via a Foreign-Flag carrier, the Foreign-Flag air carrier may be used notwithstanding the availability of alternative U.S.-Flag air carrier service.

c. Use of Foreign-Flag Air Carriers

(i) Travel To and From the U.S. Use of a Foreign-Flag air carrier is permissible if the airport abroad is:

(a) the traveler's origin or destination airport, and use of U.S.-Flag air carrier service would extend the time in a travel status by at least 24 hours more than travel by a Foreign-Flag carrier; or

(b) an interchange point, and use of U.S.-Flag air carrier service would increase the number of aircraft changes the traveler must make outside of the U.S. by 2 or more, would require the traveler to wait four hours or more to make connections at that point, or would extend the time in a travel status by at least six hours more than travel by a Foreign-Flag air carrier.

(ii) Travel Between Points Outside the U.S. Use of a Foreign-Flag air carrier is permissible if travel by a:

(a) Foreign-Flag air carrier would eliminate two or more aircraft changes en route;

(b) U.S.-Flag air carrier would extend the time in a travel status by at least six hours more than travel by a Foreign-Flag air carrier and the travel is not part of the trip to or from the U.S.; or

(c) U.S.-Flag air carrier would require a connecting time of four hours or more at an overseas interchange point.

(iii) Short Distance Travel. For all short distance travel, regardless of origin and destination, use of a Foreign-Flag air carrier is permissible if the elapsed travel time on a scheduled flight from origin to destination airport by a Foreign-Flag air carrier is three hours or less and service by a U.S.-Flag air carrier would double the travel time.

2. Charter Flights

Because of the risk of catastrophic loss, NSF does not encourage the use of charter flights as a means of mass transportation for groups of scientists and engineers nor does it make arrangements for purchase of charter flight airline tickets.

3. Projects in a Foreign Country

- a. For awards that include activities requiring permits from appropriate Federal, state, or local government authorities, the grantee should obtain any required permits prior to undertaking the proposed activities.
- b. The grantee must comply with the laws and regulations of any foreign country in which research is to be conducted. Areas of potential concern include: (1) requirements for advance approval to conduct research or surveys; (2) special arrangements for the participation of foreign scientists and engineers; and (3) special visas for persons engaged in research or studies. NSF does not assume responsibility for grantee compliance with the laws and regulations of the country in which the work is to be conducted.
- c. The grantee also should assure that activities carried on outside the U.S. are coordinated as necessary with appropriate U.S. and foreign government authorities and that necessary licenses, permits or approvals are obtained prior to undertaking the proposed activities.
- d. NSF-Supported Activities in Greenland. All research projects in Greenland must be approved in advance by the Government of Denmark. Applications for projects in which U.S. citizens and U.S. nationals are involved in any way (logistical, operational and/or financial support) shall be submitted to the Danish Government through diplomatic channels (i.e., through the U.S. Department of State and the American Embassy, Copenhagen) to the Danish Ministry of Foreign Affairs. Application forms, deadline dates and instructions are available from the Director, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

4. Passports and Visas

NSF assumes no responsibility for securing passports or visas required by any person because of participation in an NSF-supported project. It should be noted that some countries that normally do not require visas for tourists do require special visas for scientists and engineers engaged in research or studies.

5. International Travel Grants

Funding Limitations. Funds for international travel grants will normally not exceed the cost of a round-trip, economy class airline ticket between the approved points of origin and destination. Group travel grants awarded to a university, professional society or other non-profit organization to enable it to coordinate U.S. participation in one or more scientific or engineering meetings held abroad may include a flat rate of \$50 per traveler for the general administration of this type of project. NSF international travel grants may not be supplemented by funds from any other NSF grant or fellowship.

H. INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The Foundation's regulation on Intergovernmental Review of National Science Foundation Programs and Activities is published in 45 CFR Part 660.

The Federal Assistance Award Data System (FAADS) (<http://www.census.gov/govs/www/faads.html> [<http://www.census.gov/govs/www/faads.html>](http://www.census.gov/govs/www/faads.html)) notifies the States of Federal assistance awards. FAADS is a computer-based management information system that provides information on assistance awards, including NSF grants, on a quarterly basis. These reports are distributed to the States, and meet the objective of [31 USC §6502](http://www4.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00006502----000-.html) [<http://www4.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00006502----000-.html>](http://www4.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00006502----000-.html).

I. HANDLING OF INFORMATION

1. Questionnaires: Data Collection Under NSF Grants

a. Paperwork Control

Under the OMB regulation, Controlling Paperwork Burdens on the Public ([5 CFR §1320](http://www.access.gpo.gov/nara/cfr/waisidx_02/5cfr1320_02.html) [<http://www.access.gpo.gov/nara/cfr/waisidx_02/5cfr1320_02.html>](http://www.access.gpo.gov/nara/cfr/waisidx_02/5cfr1320_02.html)), if a grantee obtains information from ten or more persons by means of identical questions, it is considered to be sponsored by NSF only if:

- (i) the grantee is collecting the information at the specific request of NSF; or
- (ii) the terms of the grant require specific approval by NSF of the collection or its procedures.

If either of these conditions is met, OMB approval of the data collection is generally required and grantees should obtain the necessary control number from the cognizant NSF Program Officer.

b. NSF Policy

Data collection activities of NSF grantees are the responsibility of grantees, and NSF support of a project does not constitute NSF approval of the survey design, questionnaire content or data collection procedures. No representation may be made to respondents that such data are being collected for, or in association with, NSF or the government. However, this requirement is not intended to preclude mention of NSF support of the project in response to an inquiry or acknowledgment of such support in any publication of this data (see [AAG Chapter VI.E.4 \(aag_6.jsp#VIE4\)](#)).

2. Release of Information by NSF

a. Press Releases

Grants for projects which appear to be of special interest to the general public may be made the subject of an NSF or joint NSF/grantee organization press release to the news media. (See AAG Chapter V.C.2 (aag_5.jsp#VC2).)

b. Open Government Legislation

(i) Pursuant to the Freedom of Information Act (FOIA) (5 USC §552), NSF will provide agency records, with certain exceptions, if the request is in writing, includes the requester's name and mailing address, is clearly identified as a FOIA request, and describes the records sought with sufficient specificity to permit identification. The requester must also agree to pay fees that are chargeable under the NSF regulations. Detailed procedures are contained in 45 CFR §612. Further information is available at <https://www.nsf.gov/policies/foia.jsp> <<https://www.nsf.gov/policies/foia.jsp>> .

(ii) The Government in the Sunshine Act (5 USC §552b <http://www.usdoj.gov/oip/foia_updates/Vol_XVII_4/page2.htm>) requires that all meetings of the National Science Board be open to public observation unless the subject falls within one of ten exemptions. NSF's Sunshine Act regulations are contained in 45 CFR §614. The Sunshine Act and the FOIA cited above, may require NSF to release to the public information, correspondence and documents received by NSF from grantees, unless they fall within the Acts' limited exceptions.

c. Release of Project Reports

NSF expects significant findings from research it supports to be promptly submitted for publication. To the extent permitted by law, NSF will honor requests from grantees that release of Annual and Final Project Reports be delayed to permit orderly dissemination of significant findings through refereed channels. Unless such a request is received or material is marked as proprietary, such reports may be made available to others without notice to the grantee. Information, the disclosure of which might invade personal privacy, will be redacted before release.

J. TAX STATUS

Determination of the tax status of an organization or person receiving compensation in any form as a result of an NSF grant is the responsibility of the IRS, State and local tax authorities and the courts.

K. PROTECTION OF PROPERTIES IN THE NATIONAL REGISTER OF HISTORIC PLACES

NSF is required by 16 USC §470f to take into account the effect of grant activities on properties included in the National Register of Historic Places. Occasionally, an NSF grant may involve activities that require mitigation or other actions under the National Historic Preservation Act and implementing regulations of the Advisory Council on Historic Preservation (36 CFR §800). In such cases, as

deemed appropriate by NSF, conditions executing the goals of the National Historic Preservation Act may be included in the grant and grantees or prospective grantees may be required to coordinate with State or local historical preservation officers.

L. NATIONAL SECURITY

NSF awards are intended for unclassified, publicly releasable research. The awardee will not be granted access to classified information. NSF does not expect that the results of the research project will involve classified information.

If, however, in conducting the activities supported under an award, the PI is concerned that any of the research results involve potentially classifiable information that may warrant Government restrictions on the dissemination of the results, the PI should promptly notify the cognizant NSF Program Officer.

M. MISCELLANEOUS

1. Liabilities and Losses

NSF assumes no liability with respect to accidents, bodily injury, illness, breach of contract, any other damages or loss, or with respect to any claims arising out of any activities undertaken with the financial support of an NSF grant, whether with respect to persons or property of the grantee or third parties. The grantee is advised to insure or otherwise protect itself or others, as it may deem desirable.

2. Pre-College Students and Experimental Curriculum Development Projects

As required by 42 USC §1869 a and b, grantees of projects which involve pre-college students in research or development, or pilot-testing, evaluation or revision of, experimental or innovative curriculum development projects will:

- a. provide to the school board, or comparable authority responsible for the schools considering participation in the project, information concerning the need for and purposes of, the particular education project, the proposed content of the material to be used, the expected benefits to be derived and other information to assist the jurisdiction in arriving at a decision on participation;
- b. obtain written approval for participation in the project activities after the responsible authority has carried out its procedures;
- c. provide information and materials to the responsible school authority to assist it in carrying out its own established procedures regarding the participation of students in project activities;

- d. provide information to NSF describing compliance with the above provisions; and
- e. provide in every publication, testing or distribution agreement involving instructional material developed under a grant (including but not limited to teacher's manuals, textbooks, films, tapes or other supplementary material) that such material will be made available within the school district using such material, for inspection by parents or guardians of children engaged in educational programs or projects of that school district.

3. Use of Metric Measurements

The Metric Conversion Act of 1975 <<http://lamar.colostate.edu/%7Ehillger/laws/metric-conv.html>> (15 USC §§205a-k) and E.O. 12770 (3 CFR, §1991 comp.) encourage Federal agencies to use the Metric System in procurement, grants and other business-related activities. The NSF grant will contain a provision encouraging PI/PDs to submit project reports, final reports, other reports and publications produced under grants that employ the metric system of measurements.

¹¹In addition to vertebrate animals covered by the Animal Welfare Act, the requirements specified in this coverage also are extended to rats, birds and mice.[Back to Text](#)

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